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individually and on behalf of others similarly situated

and aggrieved

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Attorneys for Defendants,

LINCARE INC. and LINCARE PHARMACY

SERVICES INC.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JENNIFER PROSTEK, an individual, on behalf  
of herself and on behalf of other persons  
similarly situated and aggrieved,

Plaintiff,

v.

LINCARE INC., a Delaware corporation;  
LINCARE PHARMACY SERVICES INC., a  
Delaware corporation; and DOES 1 through 50,  
inclusive,

Defendants

CASE NO.: 1:22-CV-01530-JLT-BAM  
[Assigned to Hon. Jennifer L. Thurston]

**JOINT STIPULATION FOR  
DISMISSAL WITH PREJUDICE**

Complaint Filed: September 7, 2022  
Removal Filed: November 28, 2022

**TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:**

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 16 and 41(a) and Local Rule 160, Plaintiff JENNIFER PROSTEK (Plaintiff) and Defendants LINCARE INC. and LINCARE PHARMACY SERVICES INC. (Defendants) (collectively, the “Parties”), by and through their respective and undersigned counsel, hereby stipulate as follows:

**WHEREAS**, on September 7, 2022, Plaintiff filed her complaint in the Tulare County Superior Court, Case No. VCU293223, which was removed to the United States District Court for the Eastern District of California on November 28, 2022;

**WHEREAS**, on March 21, 2023, the Court ordered Plaintiff’s individual claims to arbitration and stayed her representative PAGA claim;

**WHEREAS**, on July 28, 2023, the Ventura County Superior Court granted final approval of the class and PAGA settlement in *Chavez v. Lincare, Inc.*, Case No. 56-2019-00536955-CU-OE-VTA, the settlement covered the entire period Plaintiff was employed, and Plaintiff did not opt out of the settlement. A true and correct copy of the Order Granting Plaintiffs’ Motion for Final Approval of Class Settlement, Class Representative Enhancement Awards, and Attorneys’ Fees and Costs and Final Judgment, entered in the *Chavez* matter, is attached hereto as **Exhibit A** (hereinafter, “*Chavez* Final Approval Order”);

**WHEREAS**, the Parties agreed to dismiss Plaintiff’s individual claims in arbitration with prejudice and for a mutual waiver of attorneys’ fees and costs. The Parties have since dismissed Plaintiff’s individual claims with prejudice, and the American Arbitration Association has closed its file in this matter;

**WHEREAS**, the Parties have agreed to dismiss any and all claims of Plaintiff with Defendants remaining in this Court, specifically her representative PAGA claim, with a mutual waiver of attorneys’ fees and costs;

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**NOW THEREFORE**, subject to approval of the Court, the Parties hereby stipulate and agree that Plaintiff's PAGA claim shall be dismissed without prejudice. Whereas, good cause exists for this Court to dismiss Plaintiff's PAGA claims, as any dismissal that this Court would enter would be without prejudice. Notwithstanding the foregoing, the PAGA release, as described in Paragraph 16 of the *Chavez* Final Approval Order, shall continue to remain in full force and effect.

**IT IS SO STIPULATED.**

Respectfully submitted,

Date: September 27, 2023

MATERN LAW GROUP, PC

By: \_\_\_\_\_

Matthew J. Matern

Joshua D. Boxer

Clare E. Moran

Attorneys for Plaintiff Jennifer Prostek

Respectfully submitted,

Date: September 27, 2023

FORD & HARRISON LLP

By: \_\_\_\_\_

David L. Cheng

Min K. Kim

Attorneys for Defendants,

LINCARE INC. and LINCARE PHARMACY  
SERVICES INC.

**PROPOSED ORDER**

The Court, having considered the Parties' stipulated request for dismissal, and for good cause appearing, hereby dismisses Plaintiff's claims with prejudice.

IT IS SO ORDERED.

Dated: **October 18, 2023**

  
UNITED STATES DISTRICT JUDGE